EVIDENCE—JUDICIAL NOTICE OF PRIVATE STATUTES.—Claim against the county was based upon an act of the state legislature which cured legal defects in the letting of certain contracts by county commissioners. Defendant contended that, as this was a private act, it must be proved. *Held*, judicial notice is taken of all state statutes. *Carroll County v. Reeves Const. Co.* (Ark., 1922), 242 S. W. 821.

The old common law rule which distinguished public and private statutes, permitting judicial notice of the former while denying it in the case of the latter, has generally persisted: *City of Mobile v. L. & N. R. R. Co.*, 124 Ala. 132; *Inhabitants of Town of Butler v. Robinson*, 75 Mo. 192; except where abolished by statues requiring the courts to take judicial notice of all state laws. *Mullan v. State*, 114 Cal. 578; *New York, etc., R. R. Co. v. Offield*, 78 Conn. 1; *Hill v. Tualatin Academy*, 61 Ore. 190. The reason for the rule as laid down by the early writers is that everyone is presumed to know the public law, and, conversely, that no one is presumed to know private acts, and therefore, if the latter were not pleaded and proved the other party would be taken by surprise. BULLER, NISI PRIUS, 225. It is submitted that, as a practical matter, the reason for the distinction has failed, and the decision in the instant case is justifiable. Modern statutory law does not "exist in the memory of all," and a party can inform himself of the private acts of a state as easily as those of a general nature.

EVIDENCE—OPINION BY NON-EXPERT WITNESS AS TO ULTIMATE FACT.—In an action for injury to growing crops from smoke, fumes, and gases from defendant's ore-roasting plant, a witness who had observed plaintiff's crops during the season, but who was not shown to be an expert, testified that in his opinion the damage to the plaintiff's crops was caused by fumes from the defendant's plant. *Held*, the admission of such testimony over objection was reversible error. *Peacock v. Wisconsin Zinc Co.* (Wis., 1922), 188 N. W. 641.

In the course of the opinion, it is stated that a lay witness cannot give expert evidence which covers the ultimate fact to be decided by the jury, but opinion evidence as to ultimate facts may be given by experts. If the court in the principal case means to place its decision on the ground that a witness not found qualified as an expert cannot give expert testimony, the proposition is one with which all authorities agree. So far, however, as there is a suggestion of the ultimate fact as a limit upon the admissibility of the opinion evidence of a lay witness where such evidence is otherwise admissible, the case is not so clear. With regard to expert opinion the tendency is to make no distinction between ultimate and evidential facts. While the authorities are not harmonious, many courts have held that although the opinion is given on the ultimate fact to be found by the jury, this is not *per se* a ground of exclusion. *American Agricultural Chemical Society v. Hogan*, 213 Fed. 416; *Cook v. Doud Sons & Co.*, 147 Wis. 271; *Poole v. Dean*, 152 Mass. 589; *Taylor v. Kidd*, 72 Wash. 18. See also 20 MICH. L. REV. 360, 673. The theory of admissibility being assistance to the jury, there would seem to be no reason for distinguishing the case of a lay wit-

ness. Thus, in a prosecution for the violation of a speed regulation, the opinion of a lay witness as to the speed at which the defendant was going was held admissible. *People v. Lloyd,* 178 Ill. App. 66. See also *Neely v. Shephard,* 190 Ill. 637, where it was held that an opinion of a lay witness acquainted with the respondent was admissible in a hearing on a petition to have a conservator appointed for an alleged insane person.

EVIDENCE—OTHER ACTS ADMISSIBLE TO SHOW INTENT.—Upon trial of an indictment charging blackmail in that defendant had forwarded through the United States mail a letter threatening to do injury to the person addressed, intending thereby to extort from him a sum of money, *held,* that it was proper for the prosecution to show that about the same time defendant had sent letters of a similar nature to others, as bearing on her intent. *People v. Ryan* (N. Y., 1921), 133 N. E. 572.

Where the act itself does not *per se* show its nature, the law permits other acts to be given in evidence for the purpose of showing the nature of the particular act, on the theory that the recurrence of a similar result tends to negative accident, good faith, or other innocent mental state, and tends to establish the presence of the criminal intent accompanying such act. *Blake v. Albion Life Assurance Soc.,* L. R. 4 C. P. D. 94; 1 WIGMORE ON EVIDENCE, § 302. The similarity in the various instances gives them their probative value. While a majority of the cases are agreed that similar acts occurring at or about the same time as the crime charged are admissible to show intent: *Ross v. State,* 92 Ark. 481; *Farmer v. United States,* 223 Fed. 903; *New York Mut. Life Ins. Co. v. Armstrong,* 117 U. S. 591 *People v. Molineux,* 168 N. Y. 264; yet the courts are not in harmony as to what constitutes "similar acts." Some judges admit such instances as bear a similarity liberally interpreted by the standard of every-day reasoning. Thus, in a prosecution for maliciously threatening injury to the person with intent to extort money, evidence of similar offenses committed about the same time was admitted to show intent. *State v. Vertrees,* 33 Nev. 509. In a prosecution for using the United States mails to defraud, evidence of a similar venture was properly received to show fraudulent intent. *Trent v. United States,* 228 Fed. 648; *Colt v. United States,* 190 Fed. 305. In a prosecution for mailing a letter containing a scheme to defraud, evidence that defendant had mailed similar letters not mentioned in the indictment was admitted as bearing on intent. *United States v. Watson,* 35 Fed. 358. Other courts are inclined to exclude every instance which is not on all fours with the offense in issue, on the ground that evidence of other acts tends to create a collateral issue and thus mislead the jury. *State v. Lapage,* 57 N. H. 245; *Commonwealth v. Jackson,* 132 Mass. 16; *Commonwealth v. Coe,* 115 Mass. 481. See 7 MICH. L. REV. 262. The cases state generally that evidence of other similar acts occurring "at or about the same time" is admissible. The question of remoteness seems to be within the discretion of the court. *Schultz v. United States,* 200 Fed. 234; *State v. Murphy,* 17 N. D. 48. Considerations of policy arising from